

FILED

MAR 13 2015


Clerk

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

MEADE COUNTY, SOUTH DAKOTA,) CIV. 15-5018
Plaintiff,)
vs.)
ARCHONIX SYSTEMS, LLC, a Delaware) NOTICE OF REMOVAL
Limited Liability Company,)
Defendant.)

Defendant, through its attorney, Susan B. Meyer of Gordon & Rees LLP, hereby files this Notice of Removal pursuant to 28 USC §§ 1332 and 1446.

I. TIMELINESS OF REMOVAL

1. On or about February 12, 2015, Plaintiff caused to be personally served upon Defendant a Summons and Complaint entitled *Meade County, South Dakota v. Archonix Systems, LLC, a Delaware Limited Liability Company* in South Dakota Circuit Court, Fourth Judicial Circuit, Meade County, South Dakota (the “State Court Action”).

2. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is timely filed within thirty days after the receipt by Defendant of a copy of the initial pleading setting forth the claim for relief upon which such action is based.

3. A true and correct copy of all process and pleadings, including the Complaint, are attached hereto as Exhibit A (Service of Process Summary Transmittal Form, Summons, and Complaint).

II. THE PARTIES

4. Plaintiff is a political subdivision of the state of South Dakota. Ex. A, Complaint, at ¶ 1.

5. Defendant is a Delaware Limited Liability Company with its principal place of business in the state of New Jersey and, for purposes of diversity, is a citizen of the State of Delaware and New Jersey. *See Affidavit of Robert E. Pickens and Exhibit 1* thereto; *see also* Ex. A at ¶ 3.

III. BASIS FOR REMOVAL - DIVERSITY JURISDICTION

A. Diversity

6. The State Court Action constitutes a removable civil action under 28 U.S.C. §§ 1332(a)(1) and 1441. Complete diversity of citizenship exists between Plaintiff and Defendant. *See Part II, supra.*

7. Complete diversity existed at the time of the incidents alleged in the State Court Action, at the time of the commencement of the State Court Action and complete diversity still exists.

B. Amount in Controversy

8. The Complaint seeks nonmonetary relief in the form of rescission involving restoration of the parties to the status quo and reimbursement of consequential damages relating to rescission. *See Ex. A, Complaint, ¶¶ 32-34.*

9. The Complaint also seeks monetary relief in the form of damages allegedly incurred in connection with Plaintiff's claims for breach of contract, breach of the implied covenant of good faith and fair dealing, breach of the implied warranty of merchantability, breach of the implied warranty of fitness, and breach of express warranties.

10. The legal theories on which Plaintiff bases its claims seek money damages and other relief, the value of which are estimated as over \$169,841.23, which substantially exceeds \$75,000. Ex. A, Complaint, ¶¶13, 14, and 18. *See also* 28 U.S.C. §§ 1332(a), 1446(c)(2).

11. The legal theories on which Plaintiff bases its claims seek money damages and other relief, the value of which are estimated to exceed \$75,000. *See* 28 U.S.C. §§ 1332(a), 1446(c)(2).

IV. NOTICE

12. Pursuant to 28 U.S.C. § 1446(d), prompt written notice of the filing of this Notice of Removal is being given to all adverse parties, and a true and correct copy of the Notice of Removal is being filed with the Fourth Judicial Circuit Court of Meade County, South Dakota.

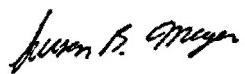
V. STATE COURT PLEADINGS

13. Pursuant to 28 U.S.C. § 1446(a) copies of all process, pleadings, and orders received by Defendant in the State Court Action are attached hereto as Ex. A.

14. **WHEREFORE**, Defendant prays that the State Court Action be removed from the Fourth Judicial Circuit Court of Meade County, South Dakota, to the United States District Court for the District of South Dakota, Western Division.

Dated this 13th day of March, 2015.

GORDON & REES LLP

By: 
Susan B. Meyer
725 St. Joseph Street, Suite B4
Rapid City, SD 57701
Phone: (605) 737-0133
smeyer@gordonrees.com
ATTORNEYS FOR DEFENDANT